

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 CHARLES BECOAT,

Case No. 3:18-cv-00210-RCJ-CLB

4 Plaintiff

ORDER

5 v.

6 NEVADA DEPARTMENT OF
7 CORRECTIONS et al.,

8 Defendants

9 This action began with a *pro se* civil rights complaint filed pursuant to 42 U.S.C. §
 10 1983 by a former state prisoner. On February 28, 2020, the Court issued an order
 11 dismissing the amended complaint with leave to amend and directed Plaintiff to file a
 12 second amended complaint within thirty days. (ECF No. 12 at 9). In a follow-up order,
 13 the Court granted Plaintiff an extension until April 30, 2020, to file a second amended
 14 complaint. (ECF No. 15). The deadline has now expired, and Plaintiff has not filed a
 15 second amended complaint or otherwise responded to the Court's order.

16 District courts have the inherent power to control their dockets and “[i]n the
 17 exercise of that power, they may impose sanctions including, where appropriate . . .
 18 dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831
 19 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure
 20 to prosecute an action, failure to obey a court order, or failure to comply with local rules.
 21 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for
 22 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.
 23 1992) (affirming dismissal for failure to comply with an order requiring amendment of
 24 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal
 25 for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of
 26 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming
 27 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
 28 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with

1 local rules).

2 In determining whether to dismiss an action for lack of prosecution, failure to obey
 3 a court order, or failure to comply with local rules, the court must consider several factors:
 4 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
 5 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
 6 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
 7 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at
 8 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

9 Here, the Court finds that the first two factors, the public's interest in expeditiously
 10 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
 11 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
 12 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
 13 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
 14 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
 15 disposition of cases on their merits—is greatly outweighed by the factors in favor of
 16 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
 17 the court's order will result in dismissal satisfies the “consideration of alternatives”
 18 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779
 19 F.2d at 1424. The Court's order requiring Plaintiff to file a second amended complaint on
 20 or before April 30, 2020, expressly stated: “It is further ordered that, if Plaintiff fails to
 21 timely file his second amended complaint, the Court will dismiss this action, with
 22 prejudice, for failure to state a claim.” (ECF No. 15 at 2). Thus, Plaintiff had adequate
 23 warning that dismissal would result from his noncompliance with the Court's order to file
 24 a second amended complaint on or before April 30, 2020.

25 It is therefore ordered that this action is dismissed with prejudice based on
 26 Plaintiff's failure to file a second amended complaint in compliance with this Court's
 27 February 28, 2020, and March 24, 2020, orders and for failure to state a claim.

28 It is further ordered that the motion to proceed *in forma pauperis* (ECF No. 1) is

1 denied as moot.

2 It is further ordered that the Clerk of Court shall close the case and enter judgment
3 accordingly.

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5 DATED THIS 8th day of July 2020.

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R. Jones
UNITED STATES DISTRICT JUDGE